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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,802	08/18/2003	Paul L. Flum	716139.180	1801
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BLACKWELL SANDERS PEPER MARTIN LLP 720 OLIVE STREET SUITE 2400 ST. LOUIS, MO 63101				
			EXAMINER AGRAWAL, CHRISTOPHER K	
			ART UNIT 3726	PAPER NUMBER

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/604,802

Applicant(s)

FLUM, PAUL L.

Examiner

Christopher K. Agrawal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 2, 4, 5 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 4, 5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoddard et. al. (U.S. Patent No. 4,946,032) in view of Miller et. al. (U.S. Patent No. 5,448,844).**
4. Claim 1: Stoddard et. al. teach a method of transforming the shape of an existing product display unit (**Fig. 4; Col. 2 lines 15-17**), said display unit having at least one side portion associated therewith, the method comprising the steps of: (a) selecting a shape other than the shape of at least one side portion of the product display unit itself into which the shape of the product display unit will be transformed (**Fig. 4; Col. 2 lines 15-17**); (b) forming a panel member separate and apart from the product display unit itself which incorporates the shape selected in step (a) above (**note the arcuate shape of panel member 11 in Fig.**

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1); and (c) attaching said panel member to at least one side portion of the product display unit (**Col. 2 lines 18-30**) so as to transform the shape of at least one side portion of the product display unit into the shape selected in step (a) above, but do not specifically teach the method wherein channel means is associated with the bottom portion of the unit; wherein said panel member has a bottom flange portion engageable with the existing product display unit; and wherein the bottom flange portion of said panel member is engageable with the channel means associated with the bottom portion of the product display unit.

5. Miller et. al. teach the method wherein channel means is associated with the bottom portion of the unit (**Fig. 3; 26**); wherein said panel member has a bottom flange portion engageable with the existing product display unit (**Col. 6 line 55-Col. 7 line10**); and wherein the bottom flange portion of said panel member is engageable with the channel means associated with the bottom portion of the product display unit (**Col. 6 line 55-Col. 7 line10**).

6. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the flange and engagement methods of Miller et. al. with the shape transformation method of Stoddard et. al. for the purpose of “provid[ing] change panel mounting means adaptable for use with a wide variety of change panels having different sizes and shapes” (**Col. 4 lines 62-64**); “wherein any number of such change panels can be incorporated into such a system, each panel associated therewith being easily and quickly changeable to reflect new or different advertising information or other indica” (**Col. 4 line 67 – Col. 5 line 3**); and for “provid[ing] mounting means for advertising and graphic

change panels which are simple and economical to make and use and which can be incorporated into both existing and new merchandising display unit constructions" (**Col. 5 lines 4-8**).

7. Claim 2: Stoddard et. al./Miller et. al. teach the method of claim 1 as modified above. Miller et. al. further teach the method wherein the panel member includes a top flange portion extending in the same plane of the panel member, said top flange portion being engageable with the existing product display (**Figs. 6 and 7; Col. 6 lines 60-70**).

8. Claim 4: Stoddard et. al./Miller et. al. teach the method of claim 1 as modified above. Miller et. al. further teach the method wherein the panel member includes at least one side wing panel portion, said side wing panel portion extending partially around and mating with portions of the existing product display unit (**Col. 9 lines 29-63**).

9. Claim 5: Stoddard et. al. teach a method of changing the contour of a product display unit (**Fig. 4; Col. 2 lines 15-17**), said product display unit having a specific contour and having at least one side portion associated therewith, and the method comprising the steps of: (a) selecting a new contour for at least one side portion of the product display unit wherein said selected contour is different from the specific contour of at least one side portion of the product display unit (**Fig. 4; Col. 2 lines 15-17**); (b) forming a panel member representative of the new contour selected in step (a) above (**note the arcuate shape of panel member 11 in Fig. 1**) when said panel member is assembled onto the product display unit; and (c) attaching said panel member to at least one side portion of

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the product display unit (**Col. 2 lines 18-30**) thereby changing the contour of the product display unit to the new contour selected in step (a) above but do not specifically teach the method wherein said panel member has top and bottom flange portions, said top and bottom flange portions being respectively engageable with the existing product display unit and wherein the top flange portion of said panel member is engageable with the upper portion of the product display unit and the bottom flange portion of said panel member is engageable with the bottom portion of the product display unit.

10. Miller et. al. teach the method wherein said panel member has top and bottom flange portions, said top and bottom flange portions (**Figs. 9 and 10; 56, 58, 64**) being respectively engageable with the existing product display unit and wherein the top flange portion of said panel member is engageable with the upper portion of the product display unit and the bottom flange portion of said panel member is engageable with the bottom portion of the product display unit (**Col. 10 line 63-Col. 11 line 13**).

11. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the flange and engagement methods of Miller et. al. with the shape transformation method of Stoddard et. al. for the purpose of “provid[ing] change panel mounting means adaptable for use with a wide variety of change panels having different sizes and shapes” (**Col. 4 lines 62-64**); “wherein any number of such change panels can be incorporated into such a system, each panel associated therewith being easily and quickly changeable to reflect new or different advertising information or other indica” (**Col. 4 line 67 –**

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**Col. 5 line 3);** and for "provid[ing] mounting means for advertising and graphic change panels which are simple and economical to make and use and which can be incorporated into both existing and new merchandising display unit constructions" (**Col. 5 lines 4-8**).

12. Claim 7: Stoddard et. al./Miller et. al. teach the method claim 5 as modified above. Miller et. al. also teach the method wherein the panel member includes extending side portions on each opposed side portion thereof, said extending side portions mating with other portions of the product display unit when said panel member is attached thereto (**Col. 9 lines 29-63**).

13. Claim 8: Stoddard et. al. teach a method of changing the contour of a product display unit (**Fig. 4; Col. 2 lines 15-17**) wherein the product display unit includes a body container 1, the method comprising the steps of: (a) selecting a panel member having a contour associated therewith different from the specific contour associated with at least a portion of the body container (**Fig. 4; Col. 2 lines 15-17**), and attachment of said panel member to the product display unit changing the contour of at least a portion of the product display but do not specifically teach the method wherein the panel member has a top flange portion and a bottom flange portion associated therewith and comprising attaching the panel member to the product display unit wherein the top flange portion of said panel member is receivable within the upper channel means associated with the product display unit and the bottom flange portion of said panel member is receivable within the bottom channel means of the product display unit.

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14. Miller et. al. teach the method wherein the panel member has a top flange portion and a bottom flange portion associated therewith and comprising attaching the panel member to the product display unit wherein the top flange portion of said panel member is receivable within the upper channel means **24** associated with the product display unit and the bottom flange portion of said panel member is receivable within the bottom channel means **26** of the product display unit (**Col. 6 line 55 – Col. 7 line 10**).

15. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the flange and engagement methods of Miller et. al. with the shape transformation method of Stoddard et. al. for the purpose of “provid[ing] change panel mounting means adaptable for use with a wide variety of change panels having different sizes and shapes” (**Col. 4 lines 62-64**); “wherein any number of such change panels can be incorporated into such a system, each panel associated therewith being easily and quickly changeable to reflect new or different advertising information or other indica” (**Col. 4 line 67 – Col. 5 line 3**); and for “provid[ing] mounting means for advertising and graphic change panels which are simple and economical to make and use and which can be incorporated into both existing and new merchandising display unit constructions” (**Col. 5 lines 4-8**).

16. Claim 9: Stoddard et. al./Miller et. al. teach the method of claim 8 as modified above. Miller et. al. further teach the method wherein the panel member includes at least one side wing portion, said at least one side wing panel



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portion extending partially around portions of the product display unit when said panel member is attached thereto (**Col. 9 lines 29-63**).

17. Claim 10: Stoddard et. al./Miller et. al. teach the method of claim 8 as modified above. Miller et. al. further teach the method wherein the product display unit further includes a lid member engageable with the chilling tub for controlling access thereto (**Fig. 8**).

### ***Conclusion***


18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher K. Agrawal whose telephone number is (571) 272-3578. The examiner can normally be reached on Mon-Fri 8AM-4:30PM.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Jimenez can be reached on (571)272-4530. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CKA

  
MARC JIMENEZ  
PRIMARY EXAMINER  
11/30/05